

UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT

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CLERK OF COURT
Thomas J. Hart

**CLERK'S
ANNOUNCEMENT
03-104**

TO: Court Users

FROM: Thomas J. Hart

DATE: September 24, 2003

**RE: 1. Anticipated Changes to Federal Rules of Bankruptcy Procedure
Regarding Privacy Matters (use of social security numbers);
2. Proposed Change to Vermont Local Bankruptcy Rule Regarding
Evidentiary Hearings.**

The referenced items will be the subject of open meetings designed to encourage discussion and comment. My "Save the Date" memorandum issued September 8, 2003 alerted you to meetings on item 1 above. Since issuing that memorandum we have added item 2.

The meetings are scheduled as follows:

**October 9, 2003
in Burlington, Vermont**

10:00 A.M.

U.S. District Court
2nd Floor Courtroom
Federal Building
11 Elmwood Ave.
Burlington, Vermont

**October 14, 2003
in Rutland, Vermont**

1:30 P.M.

U.S. Bankruptcy Court
2nd Floor Courtroom
U.S. Post Office & Courthouse
151 West St.
Rutland, Vermont

Please note that the discussion sessions on the Case Management/Electronic Case Filing (CM/ECF) system initially scheduled to follow the above meetings will **not** go

forward because we have added a second item to the open meeting discussion. The CM/ECF discussions will be rescheduled to an as yet undetermined date(s).

Attached are the following items for your review prior to attending the open meetings:

- Attachment 1 Draft Standing Order 03-AA on the upcoming federal amendments regarding (debtors') privacy. The draft is titled *Additions and Amendments to Local Rules of Practice and Procedure in Bankruptcy Court, District of Vermont: Amendments to Vt. LBR 1002-1 and Vt. LBR 1007-1*.
- Attachment 2 Clerk's proposed operating procedures for implementing the upcoming federal amendments regarding (debtors') privacy and the related draft Standing Order 03-AA included as Attachment 1.
- Attachment 3 Draft Standing Order 03-BB titled *Modification of Local Rules of Practice and Procedure... to Add Vt. LBR 9014-3(e) in Accordance With Fed. R. Bankr. P. Rule 9014-1(e)*.
Note: This draft Standing Order is not related to Attachments 1 or 2.

Should you have any questions or wish to comment on the above prior to the open meetings please contact me, Chief Deputy David A. Sime at (802) 776-2011 or Automation Systems Manager Gary M. Gfeller at (802) 776-2015.

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT**

In re:

**ADDITIONS AND AMENDMENT TO
LOCAL RULES OF PRACTICE AND
PROCEDURE IN BANKRUPTCY COURT,
DISTRICT OF VERMONT**

**Standing Order
03 - AA**

**AMENDMENTS TO: Vt. LBR 1002-1 AND
Vt. LBR 1007-1**

DRAFT FOR PUBLIC COMMENT

WHEREAS the Judicial Conference of the United States has proposed changes to the Federal Rules of Bankruptcy Procedure to protect the privacy of debtors, including limitations on inclusion of social security numbers on court documents, and such changes will take effect December 1, 2003 unless there is an objection by Congress before that date; and

WHEREAS the proposed change to Fed. R. Bankr. P. Rule 1005 requires, among other things, that the title of the bankruptcy case shall include only the last four digits of the debtor's social security number, and the proposed change to Fed. R. Bankr. P. Rule 1007(f) requires the debtor to submit to the Clerk of Court a verified statement listing the debtor's full social security number or that the debtor does not have a social security number; and

WHEREAS Official Form 21, Statement of Social Security Number(s) has been proposed as the document on which the debtor shall provide his or her full social security number to the Clerk of Court; and

WHEREAS a reading together of Fed. R. Bankr.P. Rules 1005, 1007(f) and 2002(a)(1) indicates that the Clerk shall include the debtor's social security number only on the mailed out version of the Notice of Bankruptcy Case, Meeting of Creditors, & Deadlines and further directs that the social security number shall not be included on the version of that notice maintained in the bankruptcy case file or on any other documents prepared by the court;

IT IS HEREBY ORDERED that Vermont Local Bankruptcy Rule 1007-1(g) is added and reads as follows:

When filing a bankruptcy petition electronically the completed and verified Official Form 21, Statement of Debtor's Social Security Number, as required by Fed. R. Bankr. P. Rule 1007(f), must be retained in paper form by the debtor's attorney in accordance with Vt. LBR 9011-1(b),* and

IT IS HEREBY ORDERED that Vermont Local Bankruptcy Rule 1007-1(h) is added and reads as follows:

ATTACHMENT 1 - DRAFT

The term *submitted* as used in Fed. R. Bankr. P. Rule 1007(f) means that the document at issue is not considered a paper filed in the case and is not part of the case docket,** and

IT IS HEREBY ORDERED that the last sentence of Vermont Local Bankruptcy Rule 1002-1(a) is amended to read as follows:

In cases where the case was commenced electronically, the debtor or the debtor's attorney shall bring the original, executed petition, schedules, statements and statement of debtor's social security number to the meeting of creditors held pursuant to 11 U.S.C. § 341 (hereafter "§ 341 meeting").

These additions to the Local Rules are effective December 1, 2003 concurrent with the enactment of various proposed amendments to the Federal Rules of Bankruptcy Procedure unless there is an objection by Congress before that date.

SO ORDERED.

Rutland, Vermont
October XX, 2003

Colleen A. Brown
United States Bankruptcy Judge

* Vt. LBR Rule 9011-1(b) reads in part *Documents that are filed electronically and require original signatures other than that of the party registered to use the Electronic Case Filing System must be maintained in paper form by the party registered to use the Electronic Case Filing System for five (5) years.*

** This explanation of the term *submitted* is consistent with information provided in the Committee Note (Changes Made After Publication and Comments) to Fed. R. Bankr. P. Rule 1007(f).

United States Bankruptcy Court
District of Vermont

**PROCEDURES FOR
FILING BANKRUPTCY PETITIONS
SUBJECT TO PRIVACY RULES
(Effective December 1, 2003)**

Background Information

Out of a concern for the privacy of persons using the federal courts the Judicial Conference has taken steps to minimize the availability of a debtor's social security number. These steps have resulted in proposed amendments to the Federal Rules of Bankruptcy Procedure (Fed. Rules Bankr. P.) 1005, 1007(f) and 2002(a)(1) to take effect December 1, 2003, unless there is an objection by Congress before that date. At this writing no objection is anticipated. Prior to the proposed amendments a debtor's social security number has been required on many documents filed with the court and available as a public record.

Note: Other proposed amendments, not related to privacy matters, are also scheduled to take effect on December 1, 2003.

Proposed Solution to Privacy Concerns

Understanding that creditors need a debtor's full nine digit social security number to properly identify the debtor in their data bases the Judicial Conference crafted the proposed amendments in a manner that will provide more protection of the debtor's privacy while continuing access to the information of those persons with legitimate need for that data.

The proposed amendments require debtors to disclose their full nine digit social security numbers, but the method of disclosure is by a verified statement, to be known as Official Bankruptcy Form 21, that is *submitted* (emphasis added) to the clerk. The statement is not *filed* (emphasis added) in the case and does not become part of the court record. This allows the clerk to provide needed information to the creditors and the trustee in the case, but the information does not become a part of the court record governed by § 107 of the Bankruptcy Code and is not available to the public.

A reading together of proposed Fed. R. Bankr. P. Rules 1005, 1007(f) and 2002(a)(1) indicates that the Clerk shall include the debtor's full nine digit social security number only on the mailed out version of the Notice of Bankruptcy Case, Meeting of Creditors, & Deadlines (the "341 Meeting Notice") and further directs that the social security number shall not be included on the version of that notice maintained in the bankruptcy case file or on any other documents prepared by the court. Documents filed with the clerk shall contain only the last four digits of a debtor's social security number.

United States Bankruptcy Court **ATTACHMENT 2**
District of Vermont

**PROCEDURES FOR
FILING BANKRUPTCY PETITIONS
SUBJECT TO PRIVACY RULES
(Effective December 1, 2003)**

_____ IF FILING ELECTRONICALLY

1. Ensure that only the last four digits of the debtor's social security number is displayed on the electronically filed petition.
2. Provide the full nine digit social security number in the case opening screen, or if using case upload software the "debtor.txt" file should continue to contain the full social security number.
3. Complete on paper Form 21, Statement of Social Security Number(s). Attorney to keep on file in office in accordance with Vt. LBR 9011-1(b).*
4. Complete and file with the Clerk the Declaration Regarding Electronic Filing.
 Note: This form to be revised effective 12/1/03 to contain an additional attorney declaration regarding Form 21.
5. Bring the original, executed Form 21 to the Meeting of Creditors (the "341 Meeting").

* This rule reads in part as follows:
Documents that are filed electronically and require original signatures... must be maintained in paper form by the party registered to use the Electronic Case Filing System for five (5) years.

_____ IF FILING ON PAPER

1. Insert only the last four digits of the debtor's social security number onto the petition.
2. Complete Form 21, Statement of Social Security Number(s) and submit to the clerk in conjunction with the filing of the petition.

FORM 21. STATEMENT OF SOCIAL SECURITY NUMBER

[Caption as in Form 16A.]

Clerk's Note: Form 16A prescribes the standard full caption to be used in a bankruptcy case

D-R-A-F-T

STATEMENT OF SOCIAL SECURITY NUMBER(S)

1.Name of Debtor (enter Last, First, Middle):_____

(Check the appropriate box and, if applicable, provide the required information.)

/ /Debtor has a Social Security Number and it is: ____-____-_____
(If more than one, state all.)

/ /Debtor does not have a Social Security Number.

2.Name of Joint Debtor (enter Last, First, Middle):_____

(Check the appropriate box and, if applicable, provide the required information.)

/ /Joint Debtor has a Social Security Number and it is: ____-____-_____
(If more than one, state all.)

/ /Joint Debtor does not have a Social Security Number.

I declare under penalty of perjury that the foregoing is true and correct.

X _____
Signature of Debtor Date

X _____
Signature of Joint Debtor Date

*Joint debtors must provide information for both spouses.

Penalty for making a false statement: Fine of up to \$250,000 or up to 5 years imprisonment or both. 18 U.S.C. §§ 152 and 3571.

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UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT

ATTACHMENT 3

In re:

**MODIFICATION OF
LOCAL RULES OF PRACTICE AND
PROCEDURE IN BANKRUPTCY COURT,
DISTRICT OF VERMONT**

**Standing Order
03-BB**

DRAFT FOR PUBLIC COMMENT

***To Add Vt. LBR 9014-1(e)
IN ACCORDANCE WITH
FED. R. BANKR. P. RULE 9014-1(e).***

IN ACCORDANCE WITH the most recent amendments to the Federal Rules of Bankruptcy Procedure, effective on December 1, 2002,

IT IS ORDERED that the Vermont Local Bankruptcy Rules (“Vt. LBR”) are hereby modified to add the following local rule:

Vt. LBR 9014-1. CONTESTED MATTERS

(a) - (d)

Reserved

(e) Attendance of Witnesses.

(1) The Court may schedule a hearing in any matter and designate it as an evidentiary hearing. In such instance, at least five days prior to the hearing, or any shorter period as the Court may approve, each party to the evidentiary hearing shall file with the Court, and serve upon the other interested parties, a list of witnesses the party intends to call to testify.¹ Note: Unless so designated on the Court’s calendar, hearings are NOT evidentiary hearings.²

(2) When a party seeks to schedule a hearing at which witnesses will be called to testify (“an evidentiary hearing”), that party (“the movant”) shall contact the Courtroom Deputy to schedule the hearing. Thereafter, the movant shall file with the Court, and serve upon all parties in interest, a Rule 9014(e) Notice of Evidentiary Hearing. The Rule 9014(e) Notice shall be filed and served at least ten days prior to the hearing and shall include:

(A) the time and date of the scheduled hearing (as set by the Courtroom Deputy);

¹ The list to be filed should be in substantial conformity with Vt. LBR No. 10, “Rule 9014(e) Notice of Evidentiary Hearing,” attached hereto and available on the Court’s web site.

² The exception is final hearings on motions for relief from stay, which are final evidentiary hearings per Vt. LBR 4001-1(d).

- (B) the matter or motion that is the subject of the hearing;
- (C) the amount of time that has been allocated for the hearing;
- (D) whether the movant has coordinated the request for an evidentiary hearing with opposing counsel and/or parties in interest;
- (E) the witness(es) the movant will call to testify;
- (F) any other information the movant believes is relevant to the request for the evidentiary hearing; and
- (G) whether the evidentiary hearing is being held in lieu of a previously scheduled hearing.

See Vt. LBF No. 10, “Rule 9014(e) Notice of Evidentiary Hearing”.

(3) If a party in interest seeks additional time, beyond that which has been provided for the evidentiary hearing and/or intends to call additional witnesses to testify at the evidentiary hearing, that party must contact the Courtroom Deputy at least five days prior to the hearing to determine if and/or when additional time is available for the hearing. Further, such party must file and serve a supplemental Rule 9014(e) Notice of Evidential Hearing at least three days prior to the evidentiary hearing.

(5) Parties may, and are encouraged to, file a stipulated Rule 9014(e) Notice of Evidentiary Hearing. (Parties are still required to coordinate scheduling of an evidentiary hearing with the Courtroom Deputy, whether set by a single party or by stipulation.)

(6) Approval and scheduling of a Rule 9014(e) evidentiary hearing is within the sole discretion of the Court.

This modification of the Local Rules is **effective December 1, 2003**.

SO ORDERED.

Rutland, Vermont
November ____, 2003

Colleen A. Brown
United States Bankruptcy Judge

[Vt. LBF No. 10]
UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT

DRAFT

In re:

[Debtor's Name],
Debtor.

Case # [#]
Chapter [#]

RULE 9014(e) NOTICE OF EVIDENTIARY HEARING

1. A hearing is scheduled for ____ [time] ____ on ____ [date] ____ at
____ [location] ____ regarding ____ [name of movant /type of relief sought] ____.
2. ____ [Party] ____ has confirmed with the Courtroom Deputy that said hearing will be an evidentiary hearing.
3. ____ [Amount of time] ____ has been set aside for this evidentiary hearing.
4. ____ [Party] ____ [has]/[has not] contacted the opposing party(ies)/interested party(ies) regarding the time necessary for this evidentiary hearing.
5. ____ [Party] ____ intends to call the following witnesses:

(Note: If the opposing party(ies)/interested party(ies) requires additional time and/or intends to call additional witnesses, that party must contact the Courtroom Deputy to arrange for additional time. See Vt. LBR 9014-1(e), as modified by Standing Order #03-XXX. Further, a supplemental Rule 9014(e) Notice must be filed and served. See id.)

6. [Any additional information movant deems relevant/necessary for the Court's consideration.]

7. This evidentiary hearing will be held in lieu of the hearing previously scheduled for ____ [time] ____ on ____ [date] ____ at ____ [location] ____ regarding ____ [name of movant /type of relief sought] ____.

Dated this ____ [date] ____ day of ____ [month] ____ [year].

[Signature of Movant]
Name, address, telephone number

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